



Legislative Council Staff *Nonpartisan Services for Colorado's Legislature*

Fiscal Note

Drafting Number: LLS 22-0181
Prime Sponsors:

Date: October 25, 2021
Bill Status: Bill Request
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Bill Topic: **WATER EFFICIENCY SAVINGS**

**Summary of
Fiscal Impact:**

- | | |
|---|--|
| <input checked="" type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

This bill adds a condition for tolling a period of nonuse of a water right when the nonuse, because of the implementation of efficiency improvements or methods, results in water efficiency savings. It increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$58,688 to the Department of Natural Resources.

Fiscal Note Status: The fiscal note reflects the bill draft requested by the Water Resources Review Committee.

**Table 1
State Fiscal Impacts Under Bill 4**

	Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	-	-
Expenditures		
General Fund	\$58,688	\$64,087
Centrally Appropriated	\$9,850	\$12,101
Total Expenditures	\$68,538	\$76,188
Total FTE	0.5 FTE	0.6 FTE
Transfers	-	-
TABOR Refund	-	-

Summary of Legislation

Under current law, a period of nonuse of all or part of a water right is tolled (not counted) for purposes of determining an abandonment of a water right under certain conditions. The conditions for nonuse include participation in:

- specific water conservation programs;
- a land fallowing program;
- a water banking program;
- a loan of water to the Colorado Water Conservation Board (CWCB) in the Department of Natural Resources (DNR) for instream flow use; or
- a contract or agreement with the CWCB to use the water to preserve or improve the natural environment.

This bill adds a condition for tolling a period of nonuse when the implementation of efficiency improvements or methods results in water efficiency savings as defined by the bill and determined in a water court proceeding.

Water efficiency savings can be transferred to the CWCB for instream flow use subject to the requirements applicable to a change of water right, other requirements specified in the bill, and water judge approval. The water judge may include conditions in the change decree that preserve the original decreed diversion rate if the efficiency improvements or methods are discontinued.

Assumptions

The fiscal note assumes six additional change in water rights cases will be filed per fiscal year as a result of this bill. Should additional information become available, this number may be revised.

State Revenue

This bill is expected to increase revenue to the Judicial Department from additional water court filings. These funds are subject to TABOR, but expected to be minimal.

State Expenditures

The bill increases state expenditures in Division of Water Resources in the DNR by \$68,538 in FY 2022-23 and \$76,188 in FY 2023-24 from the General Fund. Costs may also increase for the CWCB. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under Bill 4

	FY 2022-23	FY 2023-24
Department of Natural Resources		
Personal Services	\$32,774	\$43,698
Operating Expenses	-	\$675
Capital Outlay Costs	\$6,200	-
Legal Services	\$19,714	\$19,714
Centrally Appropriated Costs ¹	\$9,850	\$12,101
FTE – Personal Services	0.4 FTE	0.5 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE
Total Cost	\$68,538	\$76,188
Total FTE	0.5 FTE	0.6 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Division of Water Resources. The State Engineer and the division engineers will be party to water rights cases that are filed as a result of the bill. The division will add 0.5 FTE of a professional engineer to address the additional cases. These costs are prorated in FY 2022-23 to reflect the General Fund pay date shift and a September 1 start date. Standard operating and capital outlay costs are included.

- **Legal services.** The division requires an additional 200 hours of legal services costs provided by the Department of Law to support the increase in cases.

Colorado Water Conservation Board. If the number of acquisitions of water rights for instream flows increases from water efficiency savings, the CWCB will have an increase in expenditures and workload to process transfers of water rights. If the costs are significant, additional funds will be requested through the annual budget process; otherwise the workload and expenditures will be addressed with existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$58,688 and 0.4 FTE to the Department of Natural Resources. The Department of Law requires \$19,714 in reappropriated funds and 0.1 FTE.

State and Local Government Contacts

Judicial

Law

Natural Resources